

Notice of Allowability

Application No.

09/538,744

Examiner

Cheryl Juska

Applicant(s)

WHITE ET AL.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 05/07/04.
2. ☒ The allowed claim(s) is/are 1-14 and 39-46.
3. ☒ The drawings filed on 27 June 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Cheryl Juska
Primary Examiner
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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

Please cancel non-elected claims 29-38.

Reasons for Allowance

3. Applicant's amendment filed May 7, 2004, has been entered. Claims 1, 2, 39, 41, and 43-46 have been amended. Claims 15-28 are cancelled, while claims 29-38 are withdrawn as non-elected.

4. Applicant's amendment is sufficient to withdraw the prior art rejections based upon US 4,578,070 issued to Holtman, as set forth in sections 19-22 of the last Office Action. Specifically, applicant has amended the independent claims to limit the nonwoven web comprises "substantially continuous as formed z-direction fibers" and "being formed without pleating of the web." Said amendment differentiates the Holtman reference which corrugates or pleats a pre-formed nonwoven web, thereby producing a structurally different nonwoven. Thus, Holtman does not teach or suggest the "substantially continuous as formed z-direction fibers" as defined in the present specification, page 7, lines 13-17.

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5. An updated search of the prior art has produced no new art for which to make a proper rejection of the present claims. Although it is known in the art to form nonwovens having "as formed z-oriented fibers" from a non-bonded, carded webs of staple fibers, there is no suggestion to substitute "substantially continuous fibers," as defined in the specification, page 9, lines 14-22, for said carded staple fiber web. [Note WO 99/61693, EP 516 964, and US 5,951,798.] Thus, the prior art does not teach or fairly suggest the presently claimed nonwoven comprising substantially continuous as formed z-direction fibers forming closing loops of fibers and being formed without pleating. Hence, claims 1-14 and 39-46 are allowed.

6. The updated search also produced the following art of record:

(a) US 6,588,080 issued to Neely et al., which is not available as prior art due the same effective filing date as the present application,

(b) US 6,635,136 issued to White et al., which is a CIP of the present application, and

(c) US 2003/0114813 issued to Dodge, II et al., which is not available as prior art due to an effective filing date later than the present application.

7. With respect to the objection to the specification set forth in section 18 of the last Office Action, the examiner hereby withdraws said objection as erroneous. [Note Applicant's traversal in said Amendment, page 9, 2nd paragraph.]

8. This application is in condition for allowance except for the presence of claims 29-38 non-elected without traverse, due to lack of arguments in the Amendment of July 30, 2002. Accordingly, claims 29-38 have been cancelled.

Conclusion

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER